IN THE HIGH COURT OF DELHI AT NEW DELHI

Crl.M.C.No.2215/2004

#	S.K.Mittal		..... Petitioner
!		through:	Mr.Siddharth Luthra, Sr. Advocate with Mr.Medhanshu Tripathi, Ms.Rajni Gupta, Advocates
			VERSUS
$	CBI		..... Respondent
^		through:	Mr.Harish Gulati, Advocate

% **D**ATE OF DECISION: 13-09-2007

CORAM:

* **Hon'ble Mr.Justice Pradeep Nandrajog**

1. Whether reporters of local papers may be allowed to see the judgment? Y

2. To be referred to the Reporter or not? Y

3. Whether judgment should be reported in Digest? Y

: PRADEEP NANDRAJOG, J.
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1. Petitioner asserts that speedy trial read into Article 21 as an essential part of the fundamental right to life and liberty guaranteed and preserved under our Constitution requires the challan to be quashed.

2. Brief facts necessary to dispose of this petition are that the petitioner was working as an Executive Engineer in the DDA in the year 1991. On 4.2.1991, a complaint no. RC6(A)/91-DLI under Section 7 and Section 13(2) of the Prevention of Corruption Act, 1988 was filed against the petitioner alleging that he had received a sum of Rs.3,000/- as illegal gratification. Pursuant to the afore-noted complaint, a FIR was registered against the petitioner.

3. As the petitioner was 'public servant' within the meaning of Section 21, IPC, CBI applied for sanction under Section 19 of the Prevention of Corruption Act, 1988 for the prosecution of the petitioner.

4. Vide order dated 15.06.91, the sanction for the prosecution of the petitioner was granted by the Vice Chairman, DDA. Thereafter, CBI filed a charge sheet against the petitioner before the Court of Special Judge, Delhi.

5. Upon being summoned, petitioner filed an application for discharge on the ground that the sanction was granted by an incompetent authority. Vide order dated 31.1.96, Special Judge discharged the petitioner on the ground that Vice Chairman, DDA was not empowered to grant sanction for prosecution of petitioner.

6. On 1.6.98, CBI filed a fresh charge sheet against the petitioner after obtaining fresh sanction for prosecution of the petitioner from Director (Vigilance), DDA. Petitioner again filed an application for the discharge on the ground that the sanction was granted by an incompetent authority. Vide order dated 22.1.02, Special Judge again discharged the petitioner on the ground that sanction was not granted by a competent authority.

7. On 1.9.2003, CBI again obtained a fresh sanction for prosecution of the petitioner from the President of India. On the basis of the fresh sanction, yet again prosecution has been launched against the petitioner. Vide order dated 12.1.04, Special Judge has taken cognizance of the matter and has summoned the petitioner to face trial.

8. Petitioner seeks quashing of the prosecution on the sole ground of inordinate delay.

9. In the instant case, complaint filed in the year 1991 is still languishing at pre-charge stage in the year 2007. 16 have gone by. From the facts noted above it is apparent that the petitioner have not contributed to the delay.

10. Right to a speedy trial is a part of fair, just and reasonable procedure implicit in Article 21 of the Constitution of India.

11. Suffice would it be to note the following observations of the Supreme Court in the decision reported as *Mahender Lal Das v State of Bihar*, 2002 (1) SCC 153:-

> "5. It is true that interference by the court at the investigation stage is not called for. However, it is equally true that the investigating agency cannot be given the latitude of protracting the conclusion of the investigation without any limit of time. This Court in Abdul Rehman Antulay v. R.S. Nayak while interpreting the scope of Article 21 of the Constitution held that every citizen has a right to speedy trial of the case pending against him. The speedy trial was considered also in public interest as it serves the social interest also. It is in the interest of all concerned that guilt or innocence of the accused is determined as quickly as possible in the circumstances. The right to speedy trial encompasses all the stages, namely, stage of investigation, enquiry, trial, appeal, revision and retrial. While determining the alleged delay, the court has to decide each case on its facts having regard to all attending circumstances including nature of offence, number of accused and witnesses, the workload of the court concerned, prevailing local conditions etc. Every delay may not be taken as causing prejudice to the accused but the alleged delay has to be considered in the totality of the circumstances and the general conspectus of the case. Inordinate long delay can be taken as a presentive proof of prejudice."

12. There are plethora of judicial pronouncements where on account of delay prosecution has been quashed, some of them are being indexed below:-

S.No	Name of Case Law	Offence	Stage	Delay
1.	Rakesh Saxena Vs. State 1986 (Suppl) SCC 505	FERA	Charge	6 years
2.	Sri Nivas Gopal Vs. U.T. Of Arunachal Pradesh 1988 (Suppl.) SCC 458	304A IPC	Charge	10 years
3.	T.J.Stephen Vs. Parle Bottling Co. 1988 (Suppl.) SCC 458	Sec.5 Import & Export Control Act	Charge	26 years
4.	Moti Lal Saraf Vs. State of J & K (2006) 10 SCC 560	Prevention of Corruption Act	P.E.	26 years
5.	Mahender Lal Das Vs. State of Bihar 2002(1) SCC 149	Prevention of Corruption Act	Pre-charge	12 years
6.	Ramanand Chaudhary Vs. State of Bihar 2002 (1) SCC 153	P.C. Act	Charge	11 years
7.	Bishwanath Prasad Vs. State of Bihar 1994 Crl.L.J. 242 (SC)	P.C.Act	Charge	16 years
8.	S.G.Nain Vs. UOI 1995 (Suppl.) (4) SCC 552	P.C. Act	Charge	14 years
9.	Mansukh Lal JT 1997 (7) SC 697	P.C. Act	Charge	14 years

13. From the afore-noted judicial decisions, a trend which emerges is that Supreme Court has been quashing prosecutions pertaining to Prevention of Corruption Act, 1988 where delay in the prosecution ranges between 14 to 26 years.

14. The petition is allowed. I quash the proceedings pending

against the petitioner pertaining to the complaint filed by the respondent, copy whereof has been annexed as Annexure-P1 to the petition.

15. The bail bond and surety bond filed by the petitioner stand discharged.

16. No costs.

September 13, 2007 PRADEEP NANDRAJOG, J